

Amended complaint

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Xavier oneil

Plaintiff,

[Insert full name of plaintiff/prisoner]

Docket Number

18-CV-3287 (AMM) (LB)

CIVIL RIGHTS COMPLAINT

42 U.S.C. § 1983

JURY DEMAND

YES ☒ NO ☐

-against-

Correctional office S. Rodriguez

Defendant(s).

[Insert full name(s) of defendant(s). If you need additional space, please write "see attached" and insert a separate page with the full names of the additional defendants. The names listed above must be identical to those listed in Part I]

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 07 2019 ★

BROOKLYN OFFICE



I. Parties: (In item A below, place your name in the first blank and provide your present address and telephone number. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Xavier oneil

If you are incarcerated, provide the name of the facility and address:

Hazleton C.S.P
Bruce ton mills WV. 26525
P.O Box. 2000

Prisoner ID Number: 87652053

If you are not incarcerated, provide your current address:

Telephone Number: _____

B. List all defendants. You must provide the full names of each defendant and the addresses at which each defendant may be served. The defendants listed here must match the defendants named in the caption on page 1.

Defendant No. 1

S. Rodriguez
Full Name

Correctional officer
Job Title

MDC Brooklyn Metropolitan Detention Center
Po Box 329602 Brooklyn, NY 11232
Address

Defendant No. 2

Full Name

Job Title

Address

Defendant No. 3

Full Name

Job Title

Address

Defendant No. 4

Full Name

Job Title

Address

Defendant No. 5

Full Name

Job Title

Address

II. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 ½ by 11 sheets of paper as necessary.)

Where did the events giving rise to your claim(s) occur? IN The Metro Politan
Detention center IN BROOKLYN ~~special~~ special housing
Unit Range 4 Cell 17.

When did the events happen? (include approximate time and date) August 17-2017
Between 12:00 pm - 1:00 pm

Facts: (what happened?) ON August 17 ~~2017~~ 2017 APP-12:00-1:00pm

While Being escorted outside of my cell to a visit

I got into a Argument with a officer named S. Rodriguez

The officer told she was not taking me to my visit and that it was cancelled. I told that she cant refuse to take me

to my visit. the officer called for Assistance she then open my cell Door I told the officer she is acting like

a Bitch. She ASKed me to repeat myself when I did she Punched me in the face. the other officer pulled me

away from her and asker her what was wrong with her he ASKed me was I okay then escorted me to my visit

Since that Incident she has threatned me to keep my mouth shut. I let the Warden Know and exhusted

Administrative remedies I have been ~~to~~ taunted

by her calling me a snitch.

II.A. Injuries. If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

I Did Not recieve medical Attention But as a Result

I have Been exsperiencing Paronia, Mental Depression, Nervousness around other inmates & officers Being Im Scared for safety

When I was ASSalted I had Softeness on my left side of my face and experienced a headAche.

III. Relief: State what relief you are seeking if you prevail on your complaint.

I am Seeking monetary relief for Damages Done
to me .Due to the Deliberate Infliction of Pain and
misconduct of the officer, for ASSAULTING me and treating
me in a unfair and un Professional manner During
the Performance of the officers official Duties

I declare under penalty of perjury that on 7-25-19, I delivered this
complaint to prison authorities at Hazleton USP^(date) to be mailed to the United
(name of prison)
States District Court for the Eastern District of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 7-25-19


Signature of Plaintiff

USP Hazleton

Name of Prison Facility or Address if not incarcerated

Po Box 2000

Brace ton mills West Virginia

26525

Address

87652053

Prisoner ID#

UNITED STATES DISTRICT COURT
for the

Xavier oneil

Plaintiff/Petitioner

Correctional officer S. Rodriguez

Defendant/Respondent

Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. If incarcerated. I am being held at: USP Hazelton
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. If not incarcerated. If I am employed, my employer's name and address are:

My gross pay or wages are: \$ N/A, and my take-home pay or wages are: \$ N/A per
(specify pay period) N/A

3. Other income. In the past 12 months, I have received income from the following sources (check all that apply):

- (a) Business, profession, or other self-employment
- (b) Rent payments, interest, or dividends
- (c) Pension, annuity, or life insurance payments
- (d) Disability, or worker's compensation payments
- (e) Gifts, or inheritances
- (f) Any other sources

☐ Yes
☐ Yes
☐ Yes
☐ Yes
☐ Yes
☒ Yes

☒ No
☐ No
☒ No
☒ No
☐ No
☐ No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

family they send whenever they can state money

4. Amount of money that I have in cash or in a checking or savings account: \$ 0

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (describe the property and its approximate value):

N/A

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (describe and provide the amount of the monthly expense):

N/A

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:—

N/A

8. Any debts or financial obligations (describe the amounts owed and to whom they are payable):

N/A

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date:

7-23-19

Applicant's signature

Xavier Oneil

Printed name

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PRISONER AUTHORIZATION

Case Name: XAVIER ONEIL vs. [REDACTED]
(Enter full name of plaintiff(s)) (Enter full name of defendant(s))

Docket Number: 18 -CV- 3237 (AmD) LB
(Enter the docket number if available; if filing with your complaint, leave blank)

The Prison Litigation Reform Act ("PLRA" or "Act") amended the *in forma pauperis* statute (28 U.S.C. § 1915) and applies to your case. Under the PLRA, you are required to pay the full filing fee when bringing a civil action if you are currently incarcerated or detained in any facility. If you do not have sufficient funds in your prison account at the time your action is filed, the Court must assess and collect payments until the entire filing fee of \$350 has been paid, no matter what the outcome of the action.

SIGN AND DATE THE FOLLOWING AUTHORIZATION:

I, XAVIER ONEIL (print or type your name), request and authorize the facility, institution or agency holding me in custody to send to the Clerk of the United States District Court for the Eastern District of New York, or, if this matter is transferred to another district court, to the Clerk of the transferee court, a certified copy of my prison account statement for the past six months. I further request and authorize the facility or agency holding me in custody to calculate the amounts specified by 28 U.S.C. § 1915(b), to deduct those amounts from my prison trust fund account (or institutional equivalent), and to disburse those amounts to the United States District Court for the Eastern District of New York. This authorization shall apply to any facility or agency into whose custody I may be transferred, and to any other district court to which my case may be transferred and by which my *in forma pauperis* application may be decided.

I UNDERSTAND THAT BY SIGNING AND RETURNING THIS NOTICE TO THE COURT, THE ENTIRE COURT FILING FEE OF \$350 WILL BE PAID IN INSTALLMENTS BY AUTOMATIC DEDUCTIONS FROM MY PRISON TRUST FUND ACCOUNT EVEN IF MY CASE IS DISMISSED.

[Signature]
Signature of Plaintiff

[Signature] 7-25-19
Date Signed

Prisoner I.D. Number(s) 87652053

Name of Current Facility [REDACTED] USP
Hazelton

Statement of Claims
Continued

④

First Ammendment Retaliation claim continued

After Being Assaulted, taunted and threatened by officer Rodriguez I knew I had to do something I then wrote another letter to the Warden, S.I.S, The SHU Unit and SHU officer in charge explaining the incident and reporting officers Rodriguez behavior ^{towards} me. When SHU main line occurred the following Wednesday I asked S.I.S and the Warden did they get any of my letters they both ~~that~~ told me they did ^{not} receive any of my letters which led me to believe someone was throwing my letters away. I told both S.I.S and the Warden to review the cameras because the incident happened on the tier in front of my cell within view of the SHU cameras. The next time officer Rodriguez worked ~~on~~ the SHU range ~~in~~ 4 tier she came to my cell calling me a snitch she then told me she had something for me. which caused me to fear for my safety. Before I reported this incident multiple officers came and spoke to me trying to convince me not to talk saying it was not in my best interest to report the incident. After I reported the incident multiple officers called me a snitch out loud. Officer Rodriguez told other inmates and officers that I was snitching which incited inmates and officers to start calling me a snitch which in turn followed me when I left SHU to go back to general population I would hear people calling me an informant which was absurd because I never was an informant. ON Dec 31st 2017 App 1:00-2:00 pm I was assaulted in my cell by an inmate who while assaulting me said this is what I get for snitching. All of this has caused me nervousness, paranoia ^{and emotional distress} around other inmates and other officers which points back to the intentional infliction of emotional distress claim.

→ continued

Statement of claims

~~Page 4~~ 4

Page 4.

Equal Protection clause claim

Officer Rodriguez ASSaulted me with ~~intent~~ malicious Intent to do harm to me for ~~exercising~~ exercising my first Ammendent right of freedom of speech also because I told her she could not refuse to escort me to my visit Officer Rodriguez ~~behavior~~ behaved in a unfair and unprofessional manner in which she was not ~~is~~ trained to do so. Other's similarly situated would not have been treated as I was because ~~that~~ officers are not trained to act in a unfair and unprofessional manner. Such treatment is based on ^{the} officers own malicious Bad faith intent to injure me. ^{all} The above facts and claims would prove ^{the} That officers Discriminatory Intent was unprofessional, malicious and was ~~un~~ Not ~~a~~ Normal Behavior from officers usually treated ~~to~~ towards inmates.

Deliberate Infliction of Pain

ON August 17 Officer S. Rodriguez Deliberately inflicted Pain towards me By ASSaulted me with a close fist to my face.

The above Incident happened on August 17 APp '12.00 - 1:00 pm at the Metropolitan Detention Center in Brooklyn New York

Statement of Claims
Continued

⑭

First Ammendment Retaliation claim continued

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Equal Protection clause claim

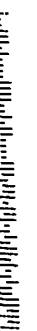
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Xavier Oneal-87652053
458 Hazelton
P.O. Box 2000
Blaceton Mills
West Virginia 26525



Clerk of Court
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201